

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 2, 4, 6-15, 18 and 21-28 are pending in the application, with claims 26-28 being the independent claims. Claims 1, 5, 16, 19, 20 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. New claims 26-28 are sought to be added.

New claim 26 corresponds to claim 5 rewritten in independent form. New claim 27 corresponds to a combination of claims 16 and 19. New claim 28 corresponds to a combination of claims 19 and 20. No other features or limitations have been added to the new independent claims that were not already in the pending claims. As such, the present amendment do not require any new search or consideration on the part of the Examiner, and entry of the present amendments are respectfully requested.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned “**Version With Markings to Show Changes Made.**”

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Claims 1-2, 4-6, 16, 18-19 and 20 stand rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 4,598,721 to Stiller (“Stiller”). As noted above, new independent claim 26 is a combination of claims 1 and 5. In the Action, the rejection argues that Stiller

teaches monitoring the tobacco particles, but no teaching is provided for comminuting the large particles. Moreover, Stiller does not, in fact, teach comminuting the large particles.

Accordingly, claim 26 is allowable over Stiller.

Claims 2, 4, 6, 7-15, 24 and 25 depend from claim 26 and are allowable as depending from an allowable claim.

Claim 27 is a combination of claims 16 and 19 and also recites comminuting the large tobacco particles. As such, claim 27 is also allowable over Stiller. Claim 18 depends from claim 27 and is allowable as depending from an allowable claim.

Claims 7-15 and 20-23 stand rejected under 35 U.S.C. §103 as being unpatentable over Stiller and U.S. Patent No. 4,373,538 to Steiniger ("Steiniger"). Steiniger is cited for making rod-like tobacco filler from fresh tobacco and recycled short tobacco, but does not teach comminuting the larger tobacco particles. Claims 7-15 depend from claim 26 and are allowable as depending from an allowable claim. Claim 28 is a combination of claims 20 and 19, and is allowable over the combination of Stiller and Steiniger. Claims 21-23 depend from claim 28.

Claims 1 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,341,228 to Keritsis ("Keritsis"). As discussed above, claim 1 has been cancelled in favor of claim 26, which is a combination of claims 1 and 5. Since claim 5 is not rejected based on Keritsis, this rejection is moot. Claim 24 depends from claim 26.

Applicant: Dietmar ZIELKE
Appl. No. 09/783,298

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

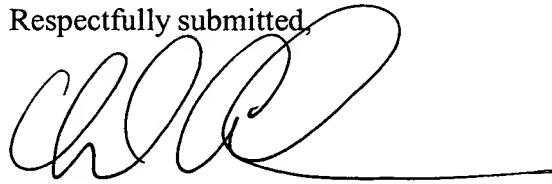
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 2, 4, 6-15, 18 and 21-28 is respectfully requested.

Date: _____

05/21/03

Respectfully submitted,



Chad C. Anderson
Registration No. 44,505
VENABLE
P.O. Box 34385
Washington, D.C. 20043-9998
Telephone: (202) 962-4800
Telefax: (202) 962-8300

Version With Markings To Show Changes Made

In the Claims:

Please amend claims 2, 4, 6, 7, 18, 21, 24 and 25; cancel claims 1, 5, 16, 19, 20 and add new claims 26-28.

2. (Amended) The method of claim 26 [1], wherein said processing step includes extruding gathered dust.

4. (Twice Amended) The method of claim 26 [1], wherein said agglomerating step includes compacting gathered dust.

6. (Amended) The method of claim 26 [5], wherein the processing step includes processing gathered dust into particles constituting granules of agglomerated dust.

7. (Amended) The method of claim 26 [1], further comprising the steps of making a rod-like tobacco filler, and embedding the particles in the filler.

18. (Twice Amended) The apparatus of claim [16] 27, wherein said agglomerating means includes means for converting dust into particles with the application of pressure.

21. (Amended) The machine of claim 28 [20], wherein said converting means comprises

means for advancing a stream of dedusted supply in a predetermined direction along a predetermined path, said means for admitting including means for supplying the particles into a predetermined portion of said path.

24. (Amended) The method of claim 26 [1], wherein the processing step does not include extruding the gathered dust into said particles.

25. (Amended) The method of claim 26 [1], wherein the processing step gathers the dust into particles of dust with sizes of between about 1 mm to about 3 mm.